



OFFICE OF PROFESSIONAL RESPONSIBILITY

2909 North Buckner Blvd., Dallas, TX 75228
Post Office Box 181509, Dallas, TX 75218

To:	Dallas Independent School District Board of Trustees
From:	Donald R. Smith, Jr. Chief Compliance Officer

REPORT OF INVESTIGATION


Case Number: 11335

RESTRICTED DISSEMINATION This entire report contains confidential work product information and should not be released without the approval of the Chief Compliance Officer for the Dallas ISD.

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To:	Dallas Independent School District Board of Trustees	
From:	Donald R. Smith, Jr. Chief Compliance Officer	APPROVED,
		
Date:	July 18, 2013	

REPORT OF INVESTIGATION

RE:	MILES, Mike Employee ID No. 70781 Superintendent of Schools Dallas Independent School District
Case Number:	11335

Type of Investigation:	Administrative
Type of Report:	FINAL
Person to Contact:	Vickie Blair, Inspector Office of Professional Responsibility, Suite 804 2909 Buckner Blvd., Dallas, TX 75228 (972) 925-8866

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Executive Summary

On June 14, 2013 the Office of Professional Responsibility (OPR) received allegations from the Chief of Communications Rebecca Rodriguez that Superintendent of Schools Floyd Mike MILES used undue influence by pulling an agenda item from the June 13, 2013 monthly Board Briefing. Ms. Rodriguez stated her concern was the agenda item was pulled because the vendor who was awarded the contract per Request For Proposal TH-204031 was not Mike MILES' favored vendor.

Rebecca Rodriguez also reported three instances of bullying (e.g., aggressive, rude and threatening behavior) by Superintendent of Schools Floyd Mike MILES; which were reported to have occurred in meetings with Mike MILES on June 11, 2013 and June 14, 2013. Ms. Rodriguez stated that witnesses were present at each of these meetings.

Additional allegations of potential interference in an OPR investigation have been addressed based upon the following actions:

1. Case facts and allegations were discussed with potential witnesses by Superintendent of Schools Floyd Mike MILES; and
2. On June 25, 2013 OPR was notified by General Counsel Jack Elrod that the Superintendent of Schools Floyd Mike MILES cancelled his June 26, 2013 scheduled interview with OPR to address all allegations reported by Rebecca Rodriguez.

On June 25, 2013 the Superintendent of Schools Floyd Mike MILES advised OPR that based upon a conversation with Board of Trustee President Eric Cowan, the investigation into all allegations reported to OPR by Rebecca Rodriguez was suspended.

On June 26, 2013 the Superintendent of Schools Floyd Mike MILES directed Dallas ISD General Counsel Jack Elrod and attorney Lisa Ray to obtain all of OPR's investigative files pertaining to all allegations reported to OPR by Rebecca Rodriguez.

On June 28, 2013 the Superintendent of Schools Floyd Mike MILES advised OPR that he and Board of Trustee President Eric Cowan have, "... *unsuspended the administrative investigation stopped by the Superintendent and Cowan.*"

This Report of Investigation summarizes the evidence obtained and interviews conducted by OPR from June 14, 2013 through June 29, 2013 to address the above allegations of pulling an agenda item from the June 13, 2013 Board Briefing because the vendor who was awarded the contract was not Mike MILES' favored vendor, three reported incidents of bullying by Mike MILES and attempts to obstruct an OPR investigation.

At the direction of the Dallas Independent School District Board of Trustees, this Report of Investigation will be referred to outside legal counsel for further investigation.

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Background

Allegation(s):

1. **Pulling Agenda Item from Board Briefing on June 13, 2013:** On June 14, 2013 the Chief of Communications Rebecca Rodriguez reported allegations to the Office of Professional Responsibility (OPR) that Superintendent of Schools Floyd Mike MILES (Mike MILES) pulled an item from the monthly Board Briefing on June 13, 2013, which related to Request for Proposal (RFP) TH-204031. Rebecca Rodriguez alleged this was because the vendor who was to be awarded this contract was not Mike MILES' favored vendor. ([W1-1 Allegations](#); [W4-1 Allegations](#); [W11-1 Statement](#))
2. **Alleged Unprofessional Conduct / Bullying:** On June 14, 2013 and June 19, 2013 Ms. Rodriguez reported allegations of bullying (e.g., aggressive, rude and threatening behavior) by Mike MILES. The reported incidents were said to have occurred on Tuesday, June 11, 2013 and in two meetings on Friday, June 14, 2013. ([W4-1](#); [W4-7 Affidavit](#))
3. **Alleged Attempting to Obstruct OPR Investigation:** On June 17, 2013 OPR received authorization and approval from Mike MILES to conduct an investigation of the allegations submitted to OPR by Rebecca Rodriguez; which were against him. Subsequent interference in this investigation occurred as follows ([W11-5 Phone Log](#)):
 - a. On June 24, 2013 Mike MILES discussed details of this investigation with a potential witness. On this date he had a phone conversation with Byron Sanders to confirm his account of the sequence of events which led to the agenda item being pulled from the Board Briefing and alerted Mr. Sanders that OPR would be contacting him to schedule an interview. OPR subsequently contacted Byron Sanders, on this same date, to submit a sworn affidavit in regard to his knowledge of and involvement in the reported allegations. ([W10-1 Affidavit](#))
 - b. On June 25, 2013 OPR was notified by General Counsel Jack Elrod that the Superintendent of Schools Floyd Mike MILES cancelled his June 26, 2013 scheduled interview with OPR. On June 25, 2013 Mike MILES instructed OPR to cease this investigation 'for the good of the District'. ([W11-2 Notarized Statement](#))

On June 26, 2013 Mike MILES directed Dallas ISD General Counsel Jack Elrod and attorney Lisa Ray to obtain all of OPR's investigative files relating to Mike MILES and stated, "... *Eric Cowan had spoken to him today at approximately 8:00 am and stated the investigation was in "suspense for now" this will allow attorneys Jack Elrod and Lisa Ray to "look at it and read it."*" ([W11-3 Notarized Statement](#); [W1-7 Schedule 6](#))

On June 28, 2013 Mike MILES advised OPR that he and Board of Trustee President Eric Cowan have, "... *unsuspended the administrative investigation stopped by the Superintendent and Cowan.*" ([W11-4 Statement](#); [W1-6 Schedule 5](#))

Employee Status

Floyd Mike MILES is employed as the Superintendent of Schools with the Dallas Independent School District and his contract with the District expires on June 30, 2015 ([W2-1 Oracle Print](#); [W2-2 Contract](#)).

Employee is on Administrative Leave: ☐ Yes ☒ No

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Extent And Results Of Investigation

Based upon the reported allegations and evidence obtained during this Report of Investigation (ROI), our investigative efforts as of this date have been categorized as follows:

I. PULLING AGENDA ITEM FROM BOARD BRIEFING ON JUNE 13, 2013

- A. Review of Dallas ISD Purchasing Policies and RFP TH-204031
- B. Prior Contracts Awarded to the Five Vendors who responded to RFP TH-204031
- C. Interviews of Some Evaluation Committee Members
- D. Interviews of Dallas ISD Employees with Knowledge of RFP TH-204031

II. ALLEGED UNPROFESSIONAL CONDUCT / BULLYING

III. ALLEGED OBSTRUCTION OF OPR INVESTIGATION

- A. Contacting Potential Witnesses to Discuss Case Facts and Allegations
- B. Suspending the Investigation and Taking Custody of All Investigative Files

The attached 'List of Witnesses and Exhibits' addendum identifies the evidence obtained and interviews conducted. This evidence includes multiple schedules prepared to summarize our analysis to date, documents provided from various sources, email communications, statements and affidavits obtained from Dallas ISD employees. Our investigative efforts as of June 29, 2013 are summarized as follows:

I. PULLING AGENDA ITEM FROM BOARD BRIEFING ON JUNE 13, 2013

A. Review of Dallas ISD Purchasing Policies and RFP TH-204031

The Dallas ISD Purchasing Manual (page 14) states the purpose of Competitive Bidding is to (emphasis added), "... *stimulate competition, prevent favoritism, and secure the best goods and services at the lowest practicable price, for the benefit of the district. Competitive bidding cannot occur where contract specifications, terms, or conditions prevent or duly restrict competition, favor a particular vendor, or increase the cost of goods or services without providing a corresponding benefit to the district.*" Purchasing personnel and school district staff should encourage vendor competition and avoid even the appearance of favoritism or other ethical misconduct.

Section 1.1 of RFP TH-204031 stated the district will award this RFP (emphasis added) (W3-3 RFP), "... to **one or more** qualified respondent(s) based upon the evaluation of all proposals received. A contract for parent education services will be executed with the successful **vendor(s)** as a result of this process." OPR did not identify specific language in this RFP which stated that multiple vendors would be selected. Section 4.0 (page 25) "Component Needs and Requirements" stated, "To more easily address the needs and requirements of each of the components of this RFP, they will be enumerated individually. Respondents are encouraged to completely describe any interoperability between their offerings if

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responding to multiple sections of this RFP. Four of the five vendors did respond to all three sections of this RFP; one vendor ([Family Leadership](#)) only responded to Section 2.2.

The scope of work outlined in Section 2.0 (pages 18 to 25) of the RFP included three sections ([W3-3 RFP](#)). OPR confirmed that First Day Attendance Initiatives per Sections 2.1 and 2.3 were cancelled and only Section 2.2 for 'Parent Education Services' was awarded under this RFP. [Elsa Pennell](#) submitted a sworn affidavit on June 18, 2013 and stated (emphasis added) ([W5-1 Affidavit](#)), "After reviewing the results and data from last year's First Day Initiative, I recommended that we not proceed with 2.1 and 2.3, and instead develop a back-to-school initiative using in-house resources to support our attendance campaign." The original three sections of the RFP were as follows:

- a. 2.1 First Day Attendance Initiative. The objective was, according to quotes from the RFP: *"To reduce the number of students absent the first day of school (August 26, 2013) and throughout the first two weeks by eliminating barriers for families."* This section identified 36 schools in the Thomas Jefferson, H. Grady Spruce and South Oak Cliff feeder patterns
- b. 2.2 Workshops and training for parents to encourage parent engagement. The objective was, according to quotes from the RFP: *"Increase parent engagement in education through school-based workshops and training modules. All programs and workshop models are welcome. Please provide workshop cost estimates, model and curriculum."*
- c. 2.3 First Day Attendance Initiative – Strategic Feeder Pattern Schools. The objective was, according to quotes from the RFP: *"To reduce the number of students absent the first day of school (August 26, 2013) and throughout the first two weeks by eliminating barriers for families."* This section identified 21 schools.

The Board Document item pulled from the monthly Board Briefing on June 13, 2013 was to award a \$219,700 one year contract to Practical Parent Education to provide Parent Education services for district wide use. The timeline associated with this RFP was as follows:

Release RFP	May 4, 2013
Deadline for Questions	May 13, 2013
Responses for Questions	May 16, 2013
RFP Due	May 20, 2013
RFP Evaluations	May 22, 2013

The original RFP was posted on May 4, 2013, [five proposals](#) were submitted by the May 20, 2013 deadline and these five proposals were reviewed and ranked by an Evaluation Committee on May 22, 2013. From May 23, 2013 through June 3, 2013 numerous emails were exchanged between Purchasing and Communications in regard to the final language for the June 13, 2013 Board Document. On June 3, 2013 the final Board Document was prepared and signed by the Executive Director of Community and Family Relations, [Elsa Valenzuela-Pennell](#), [Lee Simpson](#) an attorney in Legal Services (who approved as to form) and Chief of Communications [Rebecca Rodriguez](#). ([W1-8 Emails](#); [W1-8 Schedule 7](#))

RFP TH-204031 identified Timothy Holt as the procurement official for this contract and [Elsa Valenzuela-Pennell](#) as the technical/functional expert. This RFP was advertised in the Dallas Morning News on May 4, 2013 and May 11, 2013. On May 7, 2013 Timothy Holt contacted seven parent service organizations (via phone and/or email) to invite them to respond to this RFP, including: Practical Parent (*responded*),

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The Concilio (*responded*), PEP IT UP (*responded*), Life Guide for America, Parenting Partners, Parents Step Ahead and Clay Student Leadership ([W3-2 Invite Letters](#)).

The Dallas ISD [Purchasing Manual](#) (page 16) states, "... purchasing uses RFP for goods and services that are evaluated by a committee and awarded by the Board." Elsa Pennell invited the following six Dallas ISD employees to be on the Evaluation Committee ([W3-12 Evaluation Committee](#)):

Number:	EVALUATOR:	DEPARTMENT:
A	Elsa Pennell	Community Family Relations
B	Ivette Weis	Translation Services
C	Sherry West	Student Services
D	MariCarmen Eroles	Communications
E	Antonia Neal	Community Family Relations
F	Martha Hawkins	Attendance Improvement / Truancy
M/WBE	Annie Holmes-Partee	Minority / Women Business Enterprise

Evaluation Committee members were required to sign a conflict of interest disclosure statement and the evaluation committee declaration statement states, "As part of the procurement process, committee evaluations are utilized in order to ensure the Dallas Independent School District meets the needs of its end users through the procurement process administered through the Purchasing Department. As part of this fulfillment, it is necessary to seek the expertise of individuals to serve in this capacity."

The five proposals were ranked according to a 100 points system:

- 1) A maximum of 5 points awarded for the proposal price according to published formula by Procurement personnel;
- 2) A maximum of 20 points awarded for compliance with Minority/Women Business Enterprise (M/WBE) criteria; and
- 3) A maximum of 75 points awarded based upon the following questions:

Evaluation and Selection Criteria		Points:
1	The reputation of the vendor and of the vendor's goods or services:	
a)	Proposer must possess parent education expertise and provide educational materials and appropriate teaching aids at no cost to the District. This includes audio/visual equipment and personnel.	25
b)	Proposer has a minimum of (2) years' experience in parent education services.	10
2	Quality of the Vendor's goods and services:	
a)	Proposer must demonstrate significant operational expertise in parent education services: including providing educational materials and appropriate teaching aids at no cost to the District.	15
3	The extent to which the goods or services meet the District's needs:	
a)	Proposer must be able to rapidly meet district needs, including scaling upward or downward the total number of participants anticipated for this service.	20
4	Vendor's past relationship with District:	
a)	Vendors past experience in providing required services to Dallas ISD.	5

Total Points Awarded by Evaluation Committee:

75

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Schedule 1 (W1-2 Schedule) attached provides details of the the total scores for each of the above questions awarded by each respective Evaluation Committee member.

The detailed information per Schedule 1 is summarized in the table below. Based upon the total points awarded by each respective committee member, the Evaluation Committee ranked the proposals in the following order (W5-4 Attachment, page 6):

Proposal submitted for:		<u>2.1, 2.2, 2.3</u>	<u>2.1, 2.2, 2.3</u>	<u>2.2</u>	<u>2.1, 2.2, 2.3</u>	<u>2.1, 2.2, 2.3</u>	
Evaluation Committee (Name):	Points:	<u>Practical Parent</u>	<u>The Concilio</u>	<u>Family Leadership</u>	<u>Pep It Up</u>	<u>Relevant Knowledge</u>	
<u>Member A (Pennell)</u>		73	61	71	57	46	
<u>Member B (Weis)</u>		71	60	68	63	50	
<u>Member C (West)</u>		70	59	54	48	33	
<u>Member D (Eroles)</u>		70	60	60	59	40	
<u>Member E (Neal)</u>		69	55	63	55	43	
<u>Member F (Hawkins)</u>		70	45	36	45	31	
Average:	75	70.5	56.7	58.7	54.5	40.5	[a]
Proposal Price:	5	0.6	1.5	1.2	1.9	5.0	[b]
<u>Member M/WBE:</u>	20	0.5	6.0	1.0	-	2.0	[c]
Total:	100	71.6	64.1	60.9	56.4	47.5	
Rank		1	2	3	4	5	[a]

Notes:

[a] Practical Parent was ranked number one based upon the average of all Evaluation Committee members' scores; which also resulted in an overall ranking of number one.

[b] Relevant Knowledge was ranked number one based upon Proposal Price points.

[c] The Concilio was ranked number one based upon M/WBE scoring.

B. Prior Contracts Awarded to the Five Vendors who responded to RFP TH-204031

OPR obtained information from the Accounting and Purchasing departments to confirm when each of the five vendors who responded to RFP TH-204031 became vendors with the District and identify all prior contracts awarded to these five vendors. Cary Newsome, Accounts Payable Manager in the Accounting Department, provided the date each vendor was established and their vendor identification number. Kimi Tate, Director of Purchasing, confirmed that only two vendors, The Concilio and Practical Parent Education, had prior contracts and/or Purchase Orders (PO) with the District. Ms. Tate stated vendors that have contracts are set up in ORACLE in order to issue purchase orders and make payments and that

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these transactions do not necessarily represent a formal written contract; however, "As of April 1, 2013 all services will have formal contracts."

The vendor information for these five vendors who responded to this RFP, including address and contact information, is summarized as follows:

	Vendor Name / Address / Contact:	Vendor #:	Vendor as of:	RFP's / PO's:
1	Practical Parent Education 2300 W. White Ave., Suite 102 McKinney, TX 75071 Kelley Perez	7013	09/19/02	Multiple
2	The Concilio 400 S Zang Blvd., Suite 300 Dallas, TX 75208 Florenia Velasco Fortner	14300	12/12/02	Multiple
3	Family Leadership Fresno, CA Patty Bunker	47360	03/30/10	none
4	Pep It Up 2600 Bolton Boone Desoto, TX 75115 Tracey Amaud	49451	01/25/11	none
5	Relevant Knowledge 1801 Haley Circle Carrollton, TX 75006 Tracie Reed	n/a	n/a	none

Payments to the vendors who had prior contracts with the District were as follows:

1. [Schedule 2](#), attached as [Exhibit W1-3](#), identifies 196 payments for a total of ~\$1,461,626 issued to The Concilio from May 2003 through May 2013. The final contract awarded to The Concilio in 2009 expired in September 2012.
2. [Schedule 3](#), attached as [Exhibit W1-4](#), identifies 21 payments for a total of ~\$129,860 issued to Practical Parent Education from December 2002 through October 2012. The final contract awarded to Practical Parent Education is presumed to have expired in October 2012.

C. Interviews of Some Evaluation Committee Members

OPR did not interview all members of the Evaluation Committee before the OPR investigation was discontinued. Based upon the evidence obtained, suggested questions for each committee member were to include, but not be limited to:

- obtaining an understanding of what information was provided to them
- what instructions they received in regard to how to score each line item
- was the evaluation process fair and equitable
- were they informed that two sections of this RFP were cancelled; and
- were they informed the intent was to award this RFP to more than one vendor.

[Elsa Pennell](#), Director of School and Community Relations, submitted a sworn affidavit to OPR on June 18, 2013 wherein she stated (emphasis added) ([W5-1 Affidavit](#)):

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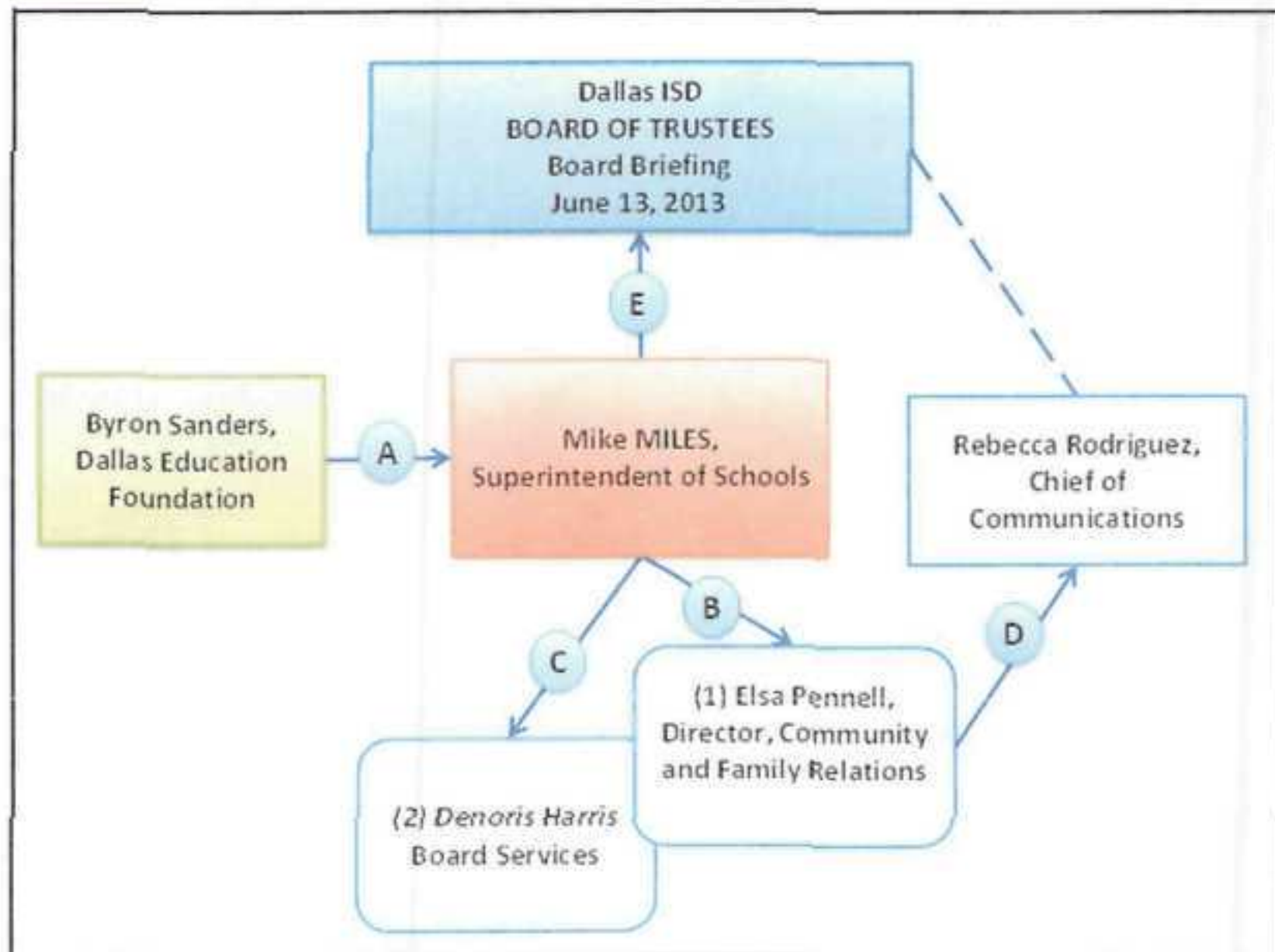
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"The (Request of Proposal) RFP was comprised of three parts: 1) 2.1 First Day Initiative (36 schools), 2) 2.2 Parent Workshops (district wide/all grades), 3) 2.3 First Day Initiative (21 schools). There was a seven member panel committee that evaluated each proposal. ... The purchasing department facilitated this process. ..."

"Following the evaluation, the purchasing team provided ranked results. I reviewed both the proposals and evaluation sheet and presented these to my supervisor. After reviewing the results and data from last year's First Day Initiative, I recommended that we not proceed with 2.1 and 2.3, and instead develop a back-to-school initiative using in-house resources to support our attendance campaign. ..."

D. Interview Dallas ISD Employees with Knowledge of RFP TH-204031

OPR obtained supporting documents for RFP TH-204031 and interviewed Dallas ISD employees who were reported to have knowledge of this RFP. The sequence of events (A through E) that led to this agenda item being pulled from the Board Briefing was as follows:



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- A. June 12, 2013 ~5:30 PM = Byron Sanders phoned Mike MILES (alerted Mike MILES that The Concilio was not selected; and only one vendor was to be awarded this contract); ([W10-1 Affidavit](#))
- B. June 12, 2013 ~7:19 PM = Mike MILES phoned Elsa Pennell (instructions to remove RFP TH-204031 from agenda); ([W5-1 Affidavit](#))
- C. June 13, 2013 ("in the morning") = Mike MILES met with Denoris Harris (instructions to remove RFP TH-204031 from agenda); ([W7-1 Affidavit](#))
- D. June 13, 2013 (after 9:04 AM; before 9:58 AM) = Elsa Pennell met with Rebecca Rodriguez to inform her of Mike MILES actions. Mike MILES never communicated this information directly to Rebecca Rodriguez. ([W5-3 Email](#); [W11-1 Statement](#))
- E. June 13, 2013 = RFP TH-204031 was removed from the Board Briefing agenda. ([W7-1 Affidavit](#))

Information provided from interviews of those Dallas ISD employees with knowledge of or involvement in RFP TH-204031 is summarized as follows:

1. **Rebecca Rodriguez**, Chief of Communications for Dallas ISD, submitted a sworn affidavit to OPR on June 19, 2013 where, in regard to her allegations that Mike MILES pulled an agenda item from the Board Briefing on June 13, 2013 because the vendor who was to be awarded this contract was not Mike MILES' favored vendor, she stated (emphasis added) ([W4-7 Affidavit](#)):

"As Chief of Communications, it is my responsibility to address the Board of Trustees and defend a document that bears my signature, as did the RFP in question. I also believe it is my responsibility to maintain a positive image for the school district, and I cannot condone the decision to pull a potentially controversial item from an agenda hours before a meeting, even if it is within a Superintendent's authority to do so. Such an action is not a prudent use of that power, and leads to an erosion of public trust. There are better ways to ensure the inclusion of diverse vendors within our community than through means that are inherently divisive."

"For the purpose of background, this RFP had been of particular concern and I previously discussed those concerns with the Superintendent. The Concilio, a participating vendor, had missed a prior RFP deadline for a similar contract before I was hired. Soon after I started my position as Chief of Communications, I began receiving emails and visits from Jerome Oberlton and Byron Sanders about the RFP and The Concilio. I stressed that all vendors with any questions about the process had equal access to Purchasing and should be directed to that department."

"At one point, I also met with the Superintendent and expressed my concern about possible conflict of interest conversations reported to me on more than one occasion. The Superintendent told me that sometimes 'things just get messy' in the interest of moving forward on initiatives and assured me RFP's would be processed on everything. I told him I disagreed that 'things just get messy' and reiterated my discomfort with the manner in which all things pertaining to Imagine 2020 were being managed."

Investigator's Note: On June 14, 2013 Rebecca Rodriguez stated, "... I left the Board meeting and saw (Denoris) Harris in the hall. I asked him, 'What just happened in there?' He referred to Concilio and stated, "... we were pressured to select them last year, guess we have to use them again this year." ([W4-1](#))

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"The RFP selection committee reviewed all vendors and selected Practical Parent Education for Parent Education Services for district wide use, as directed by the RFP. The Concilio and Family Leadership ranked second and third, respectively as approved vendors. On June 3rd, Ms. Pennell brought the documents to my office for authorization. We discussed how it was a relief to see the committee's decision seemed to steer clear of any possible conflict of interest."

"6/13/13 – Ms. Elsa Pennell came to my office sometime around 9:30 and had been trying to reach me since the evening before to advise me of last minute changes to the Board Briefing agenda as ordered by Superintendent MILES. She seemed stressed as she relayed the following: Around 9 p.m., on Wednesday, June 12, Ms. Pennell received a call from the Superintendent regarding an agenda item posted for the next day's Board Briefing. Mr. MILES told Ms. Pennell he would be pulling RFP# TH-204031 from the agenda. He instructed her to work with purchasing to change the wording on the Board Document to allow the Board of Trustees to enter into a contract with more than one approved vendor. He also stated to Ms. Pennell he would increase the amount of the contract from \$219,700 to more than \$700,000. He indicated he had such funds in his budget."

"After speaking to him (MILES), Ms. Pennell tried to call me at home that evening to inform me of the change. She said she felt very uncomfortable being contacted directly by the Superintendent about the matter, and believed it was a conversation he should have had with the Chief of Communications. She asked him if he'd contacted me and he indicated he had not. The following morning she went to Purchasing to confirm the changes directed by the Superintendent were legal. She told me she was informed the changes the Superintendent wanted to make shouldn't be a problem and pulling an item from a posted agenda shouldn't be a problem. I indicated to her, that still didn't explain the motivation for the Superintendent's actions and therefore I did not feel I would be in a position to adequately answer questions that may come from the Board of Trustees pertaining to this item. She agreed but again, stated she did not believe any questions would be asked since the item would be 'pulled'."

"This didn't seem likely to me, since the posting deadline for the agenda had passed and by law, making changes to a posted agenda is not possible. It seemed, at the very least, an explanation about the revisions to the language in the RFP would be expected."

"Given the history on this particular RFP, it was concerning to me the Superintendent decided to pull it from the agenda without letting me know he had chosen to do so. I did not understand his motivation nor did I feel I could adequately explain it for him."

"If the intent to pull the RFP was to change the language in order to allow schools the freedom of choice in use of a vendor, then that philosophical element about parent education should have been included in the RFP and discussed by our committee. If it was to ensure the board approved several or all qualified vendors, then again, it should have been clarified in the RFP language."

"During the board briefing, ... Board President Cowan attempted to indicate the item had been pulled by the administration for revision and move on, however other board trustees chose to stop him and asked me to please explain. At that point I deferred to the Superintendent. I informed the board I was not present when the decision to pull the item was

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made. The Superintendent answered a number of questions and Ms. Pennell joined us in the room within a few minutes to assist with the information."

2. **Elsa Pennell**, Director of Community and Family Relations, submitted a sworn affidavit to OPR on June 18, 2013 wherein she stated (emphasis added) (W5-1 Affidavit):

"At 7:19 p.m. (June 13, 2013) I received a telephone call from the superintendent Mike Miles in regards to the board document for parent education services. His tone was very professional. He asked why only one provider was selected as opposed to having several options for schools to choose from. I explained that there could have been a number of recommendations and that this was just one option. I then asked if my supervisor (Rebecca Rodriguez) had spoken to him about this, as was my understanding, and he said no. I told him I would contact my supervisor, and then speak to board services (specifically Deno Harris) and the purchasing department to see what could be done at this late stage, and report this information to my supervisor. This phone call was about two minutes long."

"I called my supervisor when I arrived home and charged my telephone. This was at about 9:12 p.m. At around 10:55 p.m., as I was reviewing my to-do list for the following day, I sent my supervisor an email letting her know that I had called, and to please contact me first thing in the morning. Upon arriving at work (after clocking in) I went to my supervisor's office to speak to her. She was not there. I then walked down to the board services office to gather information about the process to make any changes/additions to a board document so I could report it back to her (Rodriguez). I spoke to Kay Gulley and Deno Harris. I was told that the document could be discussed at the June Board meeting or that it could be pulled and presented in August. My understanding, at that point, is that the Board would not discuss the item at all at the briefing, but that it would be discussed later in June. I left Ms. Gulley's office and walked to my supervisor's office to report my findings. She was not there. I then walked across the street to the purchasing offices. I spoke to Theresa Ferguson and communicated the possible changes so they would be looped in."

"I walked back to my office and saw I had an email from my supervisor letting me know that she was in a meeting but to please pull her if I needed anything. At that point I made my way to my supervisor's office to ask her assistant to contact her for me, but my supervisor was already in her office. I provided my supervisor with all of the information noted above and reiterated that I had both called and emailed which she thanked me for. I also told her that while Deno Harris stated that he would let the Trustees know the document would not be reviewed until later in the month, we definitely needed more information about the June or August date and to please contact Board Services. I fully expected her (Rodriguez) to contact both Board Services and the Superintendent at that point so she would have all the necessary information in case they asked any questions. I did not expect to have to explain anything at the Board Briefing that day, since the document was changing, and (I) was very confused when questions were asked."

"Immediately after speaking to the Trustees at the Board Briefing, I sat beside Deno Harris inside the board room. We briefly discussed what the new amount would be on the board document and I wrote down \$700,000 on my scratch sheet and showed it to him. This was a figure I guessed considering we would include more vendors and multiple years. I am the one who came up with \$700,000; no one gave me that number."...

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Investigator's Note: Elsa Pennell submitted a copy of her notes to support her conversation with Denoris Harris ([W5-4 Notes](#)).

"On May 24, 2013 (see email dated May 24, 2013 – 10:33 a.m.) I emailed my supervisor to let her know that I had heard about comments that were made about the RFP and the Concilio. In my email, I let her know that my colleague, MariCarmen Eroles [MC] who attended the meeting would provide her with an update. We provide our supervisor with an update following every meeting. To the best of my recollection, what MariCarmen Eroles told me is that Byron Sanders asked about the RFP and she told him that it was an ongoing process and that a committee would evaluate all proposals. I believe MariCarmen Eroles also said that Byron Sanders asked if the Concilio had responded and if they had been included. Again, to the best of my knowledge, she repeated that it was an ongoing process and that is something the evaluation committee would decide."

"Following the June 13th Board Briefing, my supervisor asked me to come to her office. She told me to please prepare whatever documents we needed for the June Board meeting. She was visibly upset and made a comment in the heat of the moment. I told her to please let me know if I can assist her in any way."

"At this meeting, my supervisor never mentioned that she was going to contact OPR, and I never asked her not to use my name. The only time I asked her to please be mindful when using my name was on Thursday (June 13, 2013) evening after I saw Trustee Ranger in the hallway and assumed she had been there looking for my supervisor. I asked my supervisor to make it clear, when using my name in reference to the board document, that I had briefed her and provided her with information and done my due diligence as her subordinate. Something else I recall my supervisor mentioning is that following her statement at the board briefing, both Trustee Jones and Trustee Nutall smiled at her. I'm not sure why she mentioned this."

Investigator's Note: To confirm the exact times Rebecca Rodriguez was contacted, Elsa Pennell submitted a copy of the email she forwarded to Rebecca Rodriguez at 10:56 PM on June 12, 2013 ([W5-2 Email](#)) and a copy of the email she received from Rebecca Rodriguez on June 13, 2013 at 9:04 AM ([W5-3 Email](#)).

3. **MariCarmen Eroles**, Marketing and Publications Coordinator, submitted a sworn affidavit to OPR on June 19, 2013 wherein she stated (emphasis added) ([W6-1 Affidavit](#)):

"On the Friday before Memorial Day".... "The Dallas Education Foundation (DEF) representative, Byron Sanders, approached and asked about the RFP for parent education services. I told him that there was an RFP out and that companies, organizations, etc. had responded and were being reviewed by the committee. He asked when the results of the RFP would be available, and I told him that I wasn't sure. I directed him to talk to Purchasing. He asked who had been in the committee and I told him that I didn't know, that he needed to talk to Purchasing. He was insistent about when the results would be made public. He mentioned that the vendor that was picked would have to hire personnel. I instructed him to talk to Purchasing. I also mentioned that the names of the vendors would be public once the board document was made public. I explained that once the RFP process began, no district employees were allowed to talk to the vendors except for Purchasing. He mentioned that there was a need to know as soon as possible because money had to be raised to pay for the contract. I pointed to the \$172,000 committed funds on the screen at the time and asked if that was money that had been raised. He explained that the agreement with The Concilio was that

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they would raise half the funds and the DEF would raise the rest, which was the amount that showed on the document. I clarified that the amount was not indeed committed already because to me committed meant check in hand, and he said that no, it was not check in hand."

"(Kerri) Holt then said that she had been asked to be in the committee and was then disinvited. At that time, she said that this was the direction the superintendent wanted to go in, which I took to mean with The Concilio. I responded that a contract that big would have to go through the RFP process and surely the superintendent would never ask an employee to do something that would violate policy. She responded, "Of course not.""

"At about 8:30 p.m. Wednesday, June 12, 2013, Elsa received a call that I later assumed was from the superintendent, after which she asked me if one could make changes to a board document or if it had to be pulled."

4. Denoris Harris, Director of Board Service, at the OPR offices submitted a sworn affidavit to OPR on June 20, 2013 wherein he stated (emphasis added) (W7-1 Affidavit):

"Superintendent Mike Miles called me to his office on Thursday, June 13, 2013 early in the morning. He said he needed my advice on an item. He said the Parent Services item needed to be pulled because it wasn't done properly and he wanted to know what was the best way to proceed. He said that the way the document was written selected only one vendor and it should be multiple vendors. He didn't say what vendor; just that it needed to be multiple vendors. He didn't talk about the amount; just the multiple vendors. I help prepare the agenda and the board President and Superintendent set the agenda; it's not uncommon to discuss pulling an item. There is a Texas Open Meeting Act where you have 72 hours to post the agenda; this was the day of the meeting so I advised what we would do is make a motion to have that pulled at the table; and wrote a note telling them we wanted to pull this item and have it come back later for consideration. This is a simple procedure for the Board President to make that statement."

"The Superintendent didn't say anything about Byron Sanders calling him; I don't recall that. Byron is Executive Director of Dallas Education Foundation that helps find donors to bring funds to the District; if he was talking about this maybe I could find you some funds so that it doesn't come out of the general operating expense. His job is to help augment our funding on different things. The Dallas Education Foundation is an arm of the Dallas Regional Chamber of Commerce. I think the Dallas Regional Chamber manages the Dallas Education Foundation. In April of this year we signed a memorandum of understanding describing the role of DEF."

"After speaking to the Superintendent, I wrote the Board President a note on his agenda that we wanted to pull this item and bring it back at a later time. Elsa Pennell met with me after my meeting with the Superintendent and was saying the same thing the Superintendent had stated. I told her I already had that conversation with the Superintendent and was writing a note to the Board president and it should not be a big deal."

"The first time I heard about the \$700,000 was after Elsa came in to the board briefing to help explain the item to the Trustees. After she left I walked out with her and we were talking about adding vendors; she said yes but the number was going to increase from \$219,000 to \$700,000; she had that written on a piece of paper. She had a copy of the agenda and had

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written over the number and put \$700,000. I didn't think she was guessing; I thought if the terms increased to three years she just tripled the amount."

"Elsa Pennell did not mention Rebecca Rodriguez at all. Typically Rebecca Rodriguez would have talked to me before the Superintendent did. Typically it's the chief who pulls the items. The agenda is structured by divisions; so if a chief wants to pull at item they would call my office and request the item be pulled. The Superintendent can do that too since he sets the agenda."

"Generally once a month at 6:30 a.m. the Superintendent and I do the agenda review; he would move things off the agenda at that time. Usually this meeting is a few days before the briefing. We did have an agenda review for the June 13th briefing but I don't recall the exact date. We met about the structure and layout of the agenda but did not discuss specific items on the agenda. The June 13th meeting was the first meeting with this new format. If the Superintendent pulled an item he might notify the chief or he would ask me to notify the chief."

"I had a conversation with Rebecca Rodriguez after the briefing and she asked what just happened. She said she could not answer the questions because she wasn't part of that conversation. I told her that I had a meeting with the Superintendent that morning. I was a little surprised she didn't know. The name Concilio didn't come up in the dialogue at the table. During the conversation in the hall I may have said there was an issue last year around Concilio but it worked out last year because there was money left in an existing purchase order to fund the Concilio piece. She said she was ok with the document that had her signature on it, she was comfortable with that. I think Rebecca said she wasn't comfortable with anything other than that. I don't recall saying there was pressure to use Concilio this year. Last year there was an emphasis on getting kids to school the first day; not sure where Concilio came in but someone said they could help with that initiative."

Investigator's Note: Per the attached Exhibit W1-9, OPR obtained a copy of a Board Document dated August 23, 2012 which referenced RFP KH-203923 (discussed at the August 9, 2012 Board Briefing), which identified 66 compliant vendors and indicated one vendor, The Concilio, was selected as the single winning vendor. This document appears to have been pulled from the August 23, 2012 Board Meeting agenda; however, this same RFP KH-203923 appears on the September 27, 2012 Board Meeting as an approved item for 'Cobb Pediatric Therapy Services' (see page 6; Consent agenda item 61006). OPR has not determined the accuracy of the September 27, 2012 agenda item 61006. The Concilio had an existing contract from 2009 that did not expire until September 2012; which, according to the emails reviewed (W1-8), appears to have been used to provide the services referenced in the RFP KH-203923 that was cancelled.

5. **Andrea (Deedee) Rodriguez**, Administrative Assistant to the Superintendent, provided copies of the Superintendent's appointments (W8-2 and W8-3) and submitted a sworn affidavit to OPR on June 18, 2013 wherein she stated (emphasis added) (W8-1 Affidavit):

"I think the Superintendent met with Concilio representatives at least twice. The first meeting was when he was new to the district; I can look at the calendar and confirm that date but it was probably before January 2013. The second time was a very brief; meaning 2 to 3 minutes. The reason for that they were going for an RFP and I said to the Superintendent you should not been meeting with them. I think others were in also in the meeting. I just recalled

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something at a Board meeting and thought he should not be meeting with them; I wasn't sure if it was an RFP or not."

"I don't know whether Byron Sanders called the Superintendent on Wednesday June 12th; on Wednesday I left by 10:00 AM and I left at about 1:30 PM on Thursday; for personal business. Byron Sanders calls and comes by an awful lot; always drops in and wants to see the Superintendent."

6. Byron Sanders, Director Dallas ISD, submitted a sworn affidavit to OPR on June 24, 2013 wherein he stated (emphasis added) (W10-1 Affidavit and W10-2):

"Dallas Education Foundation does not have any association with The Concilio. We don't have any contracts with them, nor do we raise money for them. Neither for Imagine 2020 nor any other program or initiative."

"The week of June 10th I visited the Purchasing Department on an unrelated matter and spoke with Theresa Ferguson. In our conversation, I became aware that the Communications Department was only submitting one organization for the family services board document. That struck me as peculiar. There were a number of reasons why:"

"1. It was communicated to me as if this version of the document was different from the original draft that Theresa was familiar with. Originally, 3 organizations had been submitted, and that there was a revision communicated to the purchasing department by Elsa Pennell that changed the document to recommend that 1 organization be submitted for the contract to the board. It was my understanding that, typically, there are multiple organizations recommended by the review committee to the board of trustees, and then staff would choose from those groups once the specific project or program had been identified. I was told if one group was recommended, that you would even need to include special language indicating why only one group was being recommended to the board of trustees. That was cause for alarm, because I felt that the District could be at risk of poor perception or malfeasance if this happened. Ferguson mentioned that Lee Simpson had reviewed the document to suggest one organization."

"2. I perceived due to the conversation with Theresa Ferguson, that it was likely The Concilio was not the vendor chosen as the number 1 named vendor. She mentioned that there was a group from McKinney in the group recommended. She didn't say what the third vendor was. I didn't actually see the document."....

"3. There had been a contentious relationship between me and Elsa throughout the year. There were several missed meetings, lack of returned calls, returned emails."....

"My concerns with Elsa were to the degree that I went to speak about her dealings with external organizations and her staff to Rebecca Rodriguez. I'd also had similar conversations with Jerome Oberlton and John Dahlander when he was the interim Chief of Communications. In each instance, I was told that the person I'd reported the concern to had heard similar issues before my raising them. All of this to say, that when I called MILES about the conversation I'd had with Purchasing, my context of Elsa was that it was within the realm of possibility that she could not be fair to the Concilio because of her awareness of my relationship with Florencia, President/CEO ... of the Concilio."

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"Consequently, I chose to call Mike MILES and alert him to this situation. I wasn't able to reach Mike MILES at first, so I called Justin Coppedge to let him know that I needed to speak with him about this issue. I was finally able to speak with him on Wednesday evening around 5:00 p.m. or 5:30 p.m., June 12, when I told him about the conversation at purchasing. To the best of my recollection, our conversation was brief, between 5 and 10 minutes. Before this conversation, I had discussed my concerns about Elsa with MILES, so he knew the history. I told MILES that Elsa was the one who had been handling the Board document. MILES asked why she would do that – referencing changing the document to recommend 1 group. I mentioned several things one of which was maybe she has something against The Concilio. But ultimately I said I don't know her reasons. I said you should look into this. If it looks like the District is being unfair, then that's not good for us or right. He said he would call Elsa and see what was going on. That's the last I heard of the issue until the board briefing meeting."

"Should you review my emails with Florencia prior to this, do understand that I have known Florencia outside of my employment here and also I was of the understanding that her contract was still in force, thus not needing to submit a bid for parent services. Even when it was decided that an RFP would be released, it wasn't clear whether the Concilio needed to apply given my understanding of their contract status. My questions to Elsa were regarding whether they needed to apply or not. I also directed The Concilio to ask Community Relations how the process was supposed to be conducted, given that Florencia indicated there was confusion."

7. OPR did not interview Mike MILES. On June 28, 2013 Jack Elrod, Dallas ISD General Counsel, provided a copy of memorandum 13-0530 wherein Mike MILES addressed the above allegations as follows (W13-2 Memorandum; W13-3 EEOC Documents):

"I am thankful that I rarely spoke with Rebecca Rodriguez alone. This was intentional on my part. Almost all of our conversations in the last two weeks were witnessed by at least one other person because I feared that she would imagine slights and misconstrue my remarks. [Footnote 1: Special Assistant Justin Coppedge can attest to the fact that in the last two weeks I have not wanted to speak with Rebecca alone.]..."

"The narrative she has written describing conversations we have had over the last two weeks (and which I received yesterday from Jack Elrod) is full of misstatements and inaccuracies. Ms. Rodriguez sacrifices the truth and exaggerates in order to paint a colorful defense of her own erratic behavior and lack of professional judgment."

Investigators' Notes: Mike MILES appears to be referencing the documents Rebecca Rodriguez submitted to Mary McCants on June 20, 2013 (W13-3 Documents).

"The RFP"

"Ms. Rodriguez attributes comments to me that she either knows is a lie or simply is confused. In the first paragraph, she lies about increasing the amount of the contract from \$219,700 to more than \$700,000. I have never spoken with anyone about changing the amount and have no idea what she is talking about. Elsa Pennell, who put the RFP together, can attest to the fact that I never talked about a change to the amount nor had knowledge of the original amount until I saw it on the Board document."

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"Ms. Rodriguez assumes that I had a lot to do with the RFP. In fact, I had very little to do with it. I only got involved with an item on the Board Briefing agenda, not the RFP, because of a late phone call to Byron Sanders (I was returning his call from earlier in the day) the evening before the Board Briefing. He said he thought three vendors had been selected by the RFP selection committee to help the District with parent engagement. He told me the Board Briefing agenda did not reflect that and that only one vendor seemed to be approved."

"Because it was late (around 8:30 p.m.) and because we would have to work quickly to pull the item in order to get clarity and to determine whether we could legally and appropriately ensure more than one vendor could help us with parent engagement strategies, I called Elsa Pennell directly. Elsa Pennell can corroborate that I insisted that we do only what was legal and appropriate, and that if she needed to check with Purchasing to ensure we were in line with policy, that she should do so. For my part, I was going to check with Deno Harris in the morning to see if we could pull the item from the Briefing agenda and bring it back to the Board once we had a chance to fix the document. *The record will reflect that both Elsa Pennell and I followed through.*"

"Ms. Rodriguez's memo shows how confused she is about the entire process. She did not sign the RFP as she states in her letter; Elsa Pennell was responsible for the RFP and signed it. I was not attempting to change an RFP; I was attempting to pull an item from the consent agenda (which can be verified by watching the video of the Briefing)."

"Ms. Rodriguez is correct in that she did not understand my intent. Instead she assumes that I and others were doing something underhanded and intentionally keeping her out of the loop. One could argue that I should have called Ms. Rodriguez directly, and on hind-sight, I wish I would have. [Footnote 6: I also did not want to bother too many people after hours. This is in a footnote because it cannot be corroborated, except that other Cabinet members and senior leaders can attest to the fact that I often apologize for having to call people after hours or on weekends.] However, the fast-paced nature of the job requires that I sometimes call directors or other senior leaders directly. This is not unusual and should not have been taken as an intentional act of trying to keep Ms. Rodriguez out of the loop."

"In any case, Ms. Rodriguez was informed in the morning by Elsa Pennell around 8:30 a.m. (according to Ms. Pennell). Ms. Pennell explained my rationale for wanting to pull the item. Ms. Rodriguez never tried to ascertain my rationale or to get clarification. Instead she decided to "teach the Superintendent a lesson."

II. ALLEGED UNPROFESSIONAL CONDUCT / BULLYING

On June 14, 2013, Rebecca Rodriguez, Chief of Communications for Dallas ISD, reported allegations to OPR that she had been bullied by Mike MILES. Rebecca Rodriguez described various interactions

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with Mike MILES from May 3, 2013 through June 13, 2013 and stated, "Prior to my confrontation with Jerome Oberlton ([May 6, 2013](#)), the Superintendent seemed very supportive in every manner. The Superintendent never addressed the confrontation or Jerome's behavior. While Kerri Holt was 'reassigned', she in fact retains the same position title and salary. I believe after the confrontation with Jerome, the Superintendent no longer viewed me as an ally." ([W4-4 Notes](#))

Rebecca Rodriguez described a June 11, 2013 meeting with Mike MILES where he was discussing the reorganization of her department, and stated (emphasis added), "I should consider letting some folks go. I stated that someone might retire; Sharon. The Superintendent said I should consider getting rid of Loretta. I said she is a valuable resource. He stated he doesn't trust her; I responded that I was a good read and that I trusted her. He said, "... you will do the intent of commander." ([W4-1](#))

In addition to the above allegations, Rebecca Rodriguez reported additional allegations of bullying in the sworn affidavit she submitted to OPR on June 19, 2013 as follows:

1. **Rebecca Rodriguez** submitted a sworn affidavit to OPR on June 19, 2013 and reported two additional incidents where she was bullied by Mike MILES. In her sworn affidavit, she stated (emphasis added) ([W4-7 Affidavit](#); Attachments [W4-2 May 3, 2013 Re Kerri Holt](#); [W4-3 May 6, 2013 Re Jerome Oberlton](#); [W4-4 06.13.13 Notes](#); [W4-5 Board Document](#); [W4-6 Email Re Concilio](#)):

"6/14/13 – I had two scheduled meetings with the Superintendent the next day. During a meeting with Lisa LeMaster to discuss a reorganization of Communication Services, he took a moment to describe what I should look for in any hire for my department and became oddly passionate. He said I would need to find someone who had complete and total buy-in with what the district was doing. I needed to have someone who would bleed for what we were doing. He said, "You need someone who is willing to cut themselves, bleed, spit on it rub it in. Do you know what I mean? I have knives in here in case you need any." It was obvious he was referencing the previous board briefing and what he had interpreted as a lack of 'buy-in'."

"6/14/13 – After another meeting with another couple of my staff members, he asked me to stay behind and called in his executive assistant, Justin Coppedge. He closed the door and sat across the table from me. He began by telling me he's been pleased with my work. He was pleased with the meeting with Lisa and the communication plans he'd seen. He said he was also encouraged by the ideas for a reorganization plan. Then he said, but you're going to have to start thinking about what you are doing here. His tone changed dramatically. He started talking about loyalty. He said he was tired of hearing about my former job (something I'd referenced one time in a previous conversation) and my family commitments (my daughter graduated from high school last week, and I'd mentioned how busy it was). At that last comment about family, I think he realized he'd crossed a line and he said, "Well I have an 11 year old son, I do things with my family, too." However, the point was made."

"He then began talking about the board briefing and began yelling, saying "You are expected to take a bullet for me. As a member of this cabinet your job is to protect the Superintendent!" He went on about loyalty and commitment."

"I told him I had not done anything wrong. I simply told the truth. I pointed out did not make the decision to pull the item from the agenda therefore I could not speak to the motivation for his actions. I said, "You know I had concerns about that RFP." He nodded yes. I said, "I came to you before and said I don't like the conversations people are having about these contracts

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and you said, things get messy." Again, he nodded yes. I said, then a committee made a decision which was free and clear of any conflict, a decision which I approved, with MY signature and you came in at the 11th hour and pulled the contract. NO. I do not take a bullet for anyone when it comes to my integrity. You hired me for my knowledge about communications, but you didn't buy my integrity."

"I asked these questions for a reason. I wanted to confirm our previous conversations as I recalled them in the presence of his executive assistant, Justin Coppedge."

"Mr. MILES was furious. He continued yelling. He said, "I didn't do anything illegal. As superintendent, I can pull anything from the agenda. I got a call the night before about the RFP. That's why I pulled it." I asked him who called and he answered. "Byron". He continued, "There's nothing wrong with approving a vendor with influence in a community when it is in the best interest of the kids. I'm always going to do what is in the best interest of 157,000 kids!"

"I told him I came to the district to do work for the benefit of 157,000 kids as well, and that is why I was working as hard as possible as a *communicator*, but my integrity was going to stay intact for TWO kids. My own."

"Again, he was furious. He said I had already damaged my reputation and integrity among my colleagues by not protecting him in front of the board. He said that was my first responsibility, to protect him at my own expense. When I told him I could not truthfully answer questions about a decision I did not make, he said of course you can, and he attempted to ridicule me by launching into a role play in which he asked and answered questions, pretending to be me and Lew Blackburn."

"Again, all of this took place in the presence of Mr. Coppedge who kept his eyes averted during most of the exchange. Regardless of what a manager thinks of actions of a direct report, no one in any workplace setting should be subject to what I was forced to endure for nearly an hour in the office of Mike MILES on the afternoon of Friday, June 14, 2013."

"As he continued his diatribe, I asked him to stop yelling. He responded by lowering his voice, but went on about loyalty and my duty to him. I was unwavering in my position. I did not apologize for my decision to place him in a position of responsibility before the board for a decision, which was his alone. I told him he had put Ms. Pennell in a very difficult position and I considered that unacceptable as well. To that, he agreed. He said he should have called me instead, but countered I could have just as easily called him."

"I told him I only found out about the situation an hour before the briefing and didn't see any purpose at that point in trying to undo his action. In addition, I told him I doubted a call to him would have done any good in terms of either gaining insight as to why he had pulled the item or suggesting that he go another route, such as opening a new RFP for the services of multiple vendors. I reminded him he had communicated with me Thursday morning on two occasions and had not mentioned the RFP. It was clear he did not favor my involvement. He conceded he was wrong in not doing so."

"At that point he looked at me and said, you need to think about what you want to do, then he stopped and said, no. I know what I want you to do. I want you to start making plans for a transition."

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"In my 12 weeks of employment at Dallas ISD, I have accomplished every mutually agreed upon goal established for Communication Services for 2012-2013, and then some. This, despite the fact I stepped into my role during an exceptionally demanding time period. As I interpret this incident, my failure to 'protect' the Superintendent will cost my job, if not my professional stature at Dallas ISD."

"In my 25 years of professional work experience, I have never encountered a work environment as egregiously hostile as that which I encountered during my 12 weeks working with Mr. MILES or that which he allowed under the tenure of Jerome Oberlton. That the Dallas ISO Board of Trustees for any length of time would tolerate such an environment is cause for serious concern."

"6/18/13 – At 11 a.m. I was called into a meeting with Superintendent MILES. Also in attendance was Jack Elrod, General Counsel for Dallas ISD. Mr. MILES had a memo that he stated was 'proof I was speaking negatively of him and the district. According to the memo, in reference to the Superintendent at last Thursday's board briefing, I told MariCarmen Eroles I was going to 'teach him a lesson'. My response to the Superintendent and Mr. Elrod was that I do not speak in those terms. That was obviously a misquote. What I said to Ms. Eroles, in explanation about the board briefing was, 'I cannot be put in a position to explain an action which I am not responsible for taking. The Superintendent knew I had questions about that RFP and if he wants to pull the item from the agenda; then he has to explain it.' If she paraphrased my language and distilled it into 'teach him a lesson', perhaps that's possible, but that's not what I said. I told the Superintendent, I maintain I didn't do anything wrong and I would do it again."

"He went on to tell me it was obvious I was not 'committed' to the district. I challenged that notion. I asked him for proof that anything in my work performance, in exceeding my performance goals, in raising the morale of my department, indicated I was not committed. I asked him to explain how I was not committed to the district. Again he said, 'You are not committed to the district and my initiatives.'"

"I said, 'I've asked you for specific examples and you don't have any. There is no proof of my lack of commitment. Asking you to be accountable is not lack of commitment.'"

"Mr. Elrod suggested we stay on topic and asked the Superintendent to continue. Mr. MILES stated he was reorganizing his cabinet and would no longer have a place for a Chief of Communications. He then proceeded to tell me I could no longer be trusted and I might misconstrue what was said in meetings."

"I am not quite certain what has occurred. Is the position no longer a cabinet level position because of his reorganization? Or is this retaliation for not 'taking a bullet' for him before the board? His comments about trust and his fears that I might misconstrue information seem contradictory to a simple plan to reorganize."

"I reminded him I did not seek out this position. I reminded him how relentlessly he had pursued me despite the fact I had such serious reservations about taking this job."

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"Over the past 25 years, I have built a reputation based on integrity, trust and my ability to convey information in an accurate and reliable manner. Nothing within the past 12 weeks has changed about that."

2. **Elsa Pennell**, Director of Community and Family Relations, submitted a sworn affidavit to OPR on June 18, 2013 wherein she stated (emphasis added) ([W5-1](#)):

"On Friday evening (June 14, 2013), MariCarmen Eroles and I were getting ready to go to a banquet. My supervisor was looking for me and found me in MariCarmen's office. She was visibly upset and told us about her conversation with the superintendent and stated that she did what she did because she wanted to teach him a lesson and that she would do it all over again. She did not go into specifics of what she meant by this. She asked both MariCarmen Eroles and I to please prepare a statement."

"During this meeting MariCarmen and I both walked her through the RFP process and assured her that nothing illegal had occurred in this process. I advised her that she signed the board document; not the RFP. After that, she asked us both for the statements."

"In my opinion, this situation could have been avoided had communication occurred between Rebecca Rodriguez and the cabinet members, to include the superintendent."

Investigator's Note: In response to did Elsa Pennell ask you to present this RFP to the cabinet, Rebecca Rodriguez stated 'No.'; and in her sworn affidavit stated, "... RFP's don't typically go to the cabinet for discussion after there's been a committee review. The exception might be if there's only been a single applicant or if none of the applicants were deemed qualified and the item needs to go out for RFP again. In such a case the project or initiative might be delayed. It is doubtful the RFP would be been discussed at the Imagine 2020 Task Force at this point, either. We only discussed one (RFP) as a cabinet; from Teaching and Learning." ([W4-7](#))

3. **MariCarmen Eroles**, Marketing and Publications Coordinator, submitted a sworn affidavit to OPR on June 19, 2013 wherein she stated (emphasis added) ([W6-1](#)):

"On Friday, (June 14, 2013) about 5:30 p.m. Pennell was sitting in my office because we were planning on attending an event that evening. Rodriguez came up and it was my impression that she was looking for Pennell. To the best of my recollection, she seemed upset, and I surmised that the meeting she had with superintendent Mike Miles had not gone well. I don't recall a lot of details of what was said except that I remember Pennell clarifying for her the difference between an RFP and a board document because Rodriguez had said that she (Rodriguez) had signed the RFP. Pennell explained that, no, she (Pennell) had signed the RFP and that Rodriguez had signed the board document. Rodriguez said she wanted to make sure that everything she signed was perfectly legal and according to policy. Pennell told her that she also wanted to make sure that everything was perfectly legal and according to policy because she valued her professional integrity. Pennell assured Rodriguez that everything that had been done was legal and according to policy."

"At one point Rodriguez said that she had done what she did Thursday during the board briefing to teach the superintendent a lesson. I extrapolated that she meant teach him a lesson in the sense that he should have talked to her about the change in the board document since she would be the one who had to answer questions from the board members."

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(Tuesday, June 18, 2013, Superintendent Miles) "He asked me if she (Rebecca Rodriguez) had said that she was going to teach him a lesson, and I reluctantly said that she might have used those words. I did tell him that sometimes people do and say things in the heat of the moment that they wish later they could take back. Mr. Miles asked if I thought she was venting, and I told him that was probably the case."

Investigator's Note: OPR determined that on June 18, 2013, the day prior to our interview of Ms. Eroles, Mike MILES called her to his office to confirm whether Rebecca Rodriguez had stated she was 'going to teach him a lesson.' Justin Coppedge submitted an affidavit (see below) that Mike MILES had prepared a memo prior to meeting with Ms. Eroles that stated she had heard this comment. Mr. Coppedge subsequently provided notes he took during this meeting which stated, "...has she heard anything ... tell us truthfully ... apologize for putting in position, MariCarmen hasn't heard bad mouthed, though later admitted ... MC never heard RR say anything negative about him ... did she say teach me a lesson on Friday – yes ..." (W9-1 Affidavit; W9-2 Notes)

4. **Andrea (Deedee) Rodriguez**, Administrative Assistant to the Superintendent, submitted a sworn affidavit to OPR on June 18, 2013 wherein she stated (emphasis added) (W8-1 Affidavit; Attachments: W8-2, W8-3):

"The 3:30 PM meeting (June 14, 2013) with Rebecca Rodriguez, Elsa Pennell and MariCarmen Eroles was in the Superintendent's office. I can't recall about what happened after this meeting or whether Justin Coppedge walked in or not; he walks in all the time."

"I never see the Superintendent upset; so I could not say that he was upset on Friday June 14, 2013. I can't really hear what is going on in his office."

"The Superintendent mentioned to me that Rebecca Rodriguez said something to her staff, like he needs to learn a lesson or learn the hard way; not sure what phrase he used. Someone in her staff confirmed that to him. I can't recall exactly when the Superintendent made the comment to me about what someone on Rebecca's staff said. He had a 8:30 AM meeting on June 18th that was a last minute meeting with MariCarmen."

5. **Justin Coppedge**, Special Assistant to the Superintendent, submitted a sworn affidavit to OPR on June 20, 2013 wherein he stated (emphasis added) (W9-1 Affidavit; W9-2 Attachments):

"In the afternoon of the June 11th, I went to meet with Rebecca Rodriguez to update her on the Monday Morning Cabinet meeting on June 10th that she had missed and provide her with documents that had been distributed during the meeting and items that had been discussed. When I mentioned to Mr. MILES that I was going to her office, he said he had something he wanted to talk with her about and so he would tag along. When we went into her office, he mentioned that at some point sooner rather than later he wanted them to talk about reorganizing the Communications department. He mentioned that Lisa LeMaster had sent him a plan that he had not reviewed yet but that he also wanted to get her thoughts and views on it. Rebecca Rodriguez told Mr. MILES that some of her staff members had come to her because they had gotten calls from community members asking if they were losing their jobs or if Communications was hiring. He responded that he didn't know anything about that, that no decisions had been made, and that they would make the decisions together with input from Ms. LeMaster. At one point during the conversation, Mr. MILES said that Chiefs needed to

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follow the "commander's intent". This is a phrase that I have heard him use on a frequent basis in a variety of meetings with different staff. Over the duration of the conversation, from both tone and body language it appeared that both Mr. MILES and Ms. Rodriguez were becoming frustrated by the conversation. After Mr. MILES left, Ms. Rodriguez seemed particularly frustrated or upset and made reference to the phrase "commander's intent". I explained to her that I had heard him use it before and that my impression was, in every situation I had heard him use it, that he meant that his job was to determine the long term goal or outcome or big idea and then the Chiefs were empowered to work to achieve that goal/outcome/idea however they thought best and that if they encountered a situation or decision in which they weren't sure what to do that they should consider what they thought he would do or what his intent was based on the goals and make a decision that is most in line with that outcome or goal. Though I have never heard him explicitly define what he meant by "commander's intent", I have drawn my conclusion on what I think he means based on his description of decision making in situations when he has used the phrase."....

"I was present at the third meeting that afternoon with Mr. MILES and Ms. Rodriguez that started around 4pm. I would describe the meeting as starting out calm and professional and then becoming more contentious as it continued. Both Mr. MILES and Ms. Rodriguez were clearly angry and or frustrated by the conversation, and the conversation could be at times described as heated. Mr. MILES started the meeting by stating that he had some concerns and that he thought she had some concerns and that he thought it would be better to get them out on the table now instead of later and that they would need to make a decision about what was best for her and what was best for the District. He said that at some point she was going to have to make a decision and that he was going to have to make a decision, but that he wanted her to think about it and make a decision first. He said he wanted her to take the weekend to think about things and take the next week too, if needed, and that they would have a couple of conversations about it and then some decisions would need to be made."

"He (MILES) started out by saying that he had concerns and was going to share them and then she would have an opportunity to respond and share her concerns. He said that his concerns were around the fact that she didn't seem to really understand what he was trying to say and that he was not understanding or connecting with her, that he was concerned about whether or not she was invested fully in the district and in the work they (the district) was trying to do, and whether she really understood the system and nature of the work and politics that the District faces."

"He shared that what happened at the Board Briefing was a concern of his because of how she responded. He said that his intent all along was that there would be more than one vendor so that the district or schools could choose the best vendor for a given situation or need. He said that he didn't care which three there were, he wanted the committee to review and decide which ones were the best, that he didn't want to be involved, but that he wanted several options. He said that he had gotten a call on Wednesday evening that the Board item was written in a way that would allow only one vendor. He had that he had been under the impression that there were going to be three vendors that could be chosen from. She asked who it was, and he said it didn't matter. She said it did matter. He said that Byron Sanders had called him. She responded with something like "of course". Mr. MILES said that Mr. Sanders had called him to let him know that the Board item was not written like Mr. MILES thought it was and that there would only be one vendor. Mr. MILES said he called Elsa Pennell to find out more about the situation and that he called her because it was already late in the evening. Mr. MILES said that Ms. Pennell confirmed that the Board item was written to award

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the contract to only one vendor. He asked her to look into it. He said that he met with Ms. Pennell and Deno Harris on Thursday morning to discuss the item and whether or not it could be pulled. Mr. MILES said that Mr. Harris confirmed that Mr. MILES has the authority to pull any item from the agenda and so he directed Mr. Harris to pull the item and was told that it was taken care of and would not be on the agenda."

"Mr. MILES said Ms. Rodriguez's reaction to the pulling of the item at the Board table was a problem. He said that when she crossed her arms, leaned/pushed back from the table, and responded to Board member questions with a comment indicating that she wasn't involved or didn't make the decision. He said that could have created a lot more issues with the Board and with the media because of her response and the impression that she gave. He said she could have said something to the effect of we are pulling this item for further review or the item needs to be pulled so that it can be considered more."

"She (Rodriguez) asked him why he didn't call her and instead called one of her staff members. He said that because it was at the last minute and because it was in the evening on Wednesday, he didn't want to call Ms. Rodriguez to have her call Ms. Pennell who would then have to find the information and call Ms. Rodriguez back who would then have to call Mr. MILES back with the information. He said that instead he just called Ms. Pennell because he knew it was her department and he wanted to get an answer quickly. He asked Ms. Rodriguez if she had been told about the item being pulled prior to the Briefing. She said it didn't matter, he should have called her. He said it does matter and asked if she had been told. She said Ms. Pennell had told her the morning of the Briefing but it was right before the meeting at 11a.m. or that it was sometime between 10 a.m. and 11 a.m. because she had been in an hour and half meeting with the other Chiefs in the storyboarding room. She said she was there all morning and all he had to do was walk over or give her a call or send her an email about it. He said that he probably should have called her but that he had asked Ms. Pennell to tell her and that if she was that concerned, why didn't she talk to him about it. She initially responded with something to the effect of "I wanted to see what you would do" but focused more on her opinion that he should have contacted her directly and not left it up to Elsa."

"Ms. Rodriguez said that she thought that pulling the item from the agenda was illegal and unethical and she didn't want to be any part of it or have her reputation damaged or integrity compromised by being part of it. Mr. MILES said that her reputation was intact and that it is completely legal and ethical to pull an item from the Board agenda. Mr. MILES asked how pulling a Board item could be seen as compromising her ethics or reputation. She said that it was her signature on the RFP and that if a vendor has heard that they were listed to be approved for the contract and tuned in to watch and then saw the item be pulled they would have wondered why it had gotten pulled and because her name was on the RFP it would reflected on her. Mr. MILES responded that because it is not illegal to pull a Board item, it would have not reflected on her and that he had taken the fall for it, that he protected his team because he said during the Briefing that it was his decision to pull it and he said to the Board that it was his misreading or misunderstanding about the item that led to the confusion during the Briefing, and he did not direct any of the blame toward her. Ms. Rodriguez said that she did not feel very protected at while sitting at the Briefing table."

"At one point during the conversation Mr. MILES said that while they are at the cabinet meetings and at other internal meetings, they (seemed to be indicating collectively Chiefs/senior staff, not just Ms. Rodriguez and himself) will argue and disagree and agree and debate but then they will come to a final decision and when there is a final decision he expects

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for everyone to put aside their differences and to support and implement the decision that has been made so that the team has a unified front to the rest of the District and the community. He pointed out that her reaction during the Board briefing did not reflect that. He used an example of Southwest Airlines making a decision to charge for bags to illustrate his point."

"Ms. Rodriguez said that if Mr. MILES had looked at her resume at all he would have known that she worked for Herb Kelleher, and that she had met him once and that he would have never left someone on his team out to dry the way that Mr. Miles had done to her at the Board briefing. Mr. MILES responded that he did not leave her out to dry, that he took responsibility for pulling the item and responded to the situation when she did not. He said that sometimes there are situations though where you have to, without doing anything illegal or unethical, take a bullet for me or for the team or the district. She responded with something to the effect of "No sir. I do not take a bullet for you". He responded with something to the effect of "sometimes for the good of the organization, you have to. I have. It's something we do to protect the team as long as it's not illegal or unethical." I also recall later in the conversation Ms. Rodriguez telling Mr. MILES something to the effect of you want me to take a bullet for you or quit. Mr. MILES responded that it was a poor choice of phrase on his part and that what he meant and wanted to her to understand was that without doing anything illegal, immoral, or unethical that when situations like the board meeting arise, she think about it and respond in a more productive way."

"At some point in the conversation, Mr. MILES mentioned that there is a political nature to the district that has to be considered and there is nothing wrong with approving vendors who have influence in the community. He gave the example of how he had spoken at the North Dallas Chamber of Commerce Education Breakfast on Friday morning and that a board member or former board member of the Concilio was there and that someone affiliated with Avance was there as well and that the people in attendance at the breakfast are supporters of the District and the work that needs to get done. He said that the District shouldn't approve vendors just because they have influence in the community but that if they meet the requirements of the RFP that they should be at least considered and that having more than one approved vendor gives the District flexibility to use whoever is best for any given need. Ms. Rodriguez responded that she had seen the report on the Concilio's back to school campaign and that it wasn't impressive. Mr. MILES said he had seen the report but that he also knows they have done good work in other areas. He again said that's not a reason to give them the contract and that his broader point was that having several vendors to choose from is best and referenced that other departments like technology and teaching and learning have multiple vendors approved."

"At one point about two thirds of the way through the conversation, Mr. MILES elevated his voice slightly and spoke in an emphatic tone (he was not in my opinion yelling). Ms. Rodriguez told him "Don't speak to me that way" and Mr. MILES immediately lowered his voice and softened his tone though he continued to say what he was saying. To the best of my recollection he was describing different ways she could have responded during the briefing to the item being pulled."

"Also during the conversation, Ms. Rodriguez said that the RFP had concerned her because she had heard Mr. Sanders and Kerri Holt talk about some of the vendors that had responded to the RFP and how the district should use them and that she had seen emails with/from/between Mr. Sanders, Ms. Holt, and Mr. Oberlton talking about some of the vendors. She also mentioned that Mr. MILES had been copied on them. Ms. Rodriguez said that both

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she and Ms. Pennell were relieved when the selection committee selected the vendor that they did because it was not one that she had heard anyone talk about before."

"Also during the conversation, Mr. MILES said that he didn't ... think Ms. Rodriguez appreciated the political nature of the District and gave the example of Reasoning Minds. He said that when he first got here, Reasoning Minds was expanding from 2nd to 3rd grade. He asked for more information about it and based on initial response, put the expansion on hold because there seemed to be problems with implementation and that the results weren't that great. He said that he took tremendous pressure from community supporters and Trustees about just putting it on pause. Once he had all the information he had to make a decision and he decided that because the program had shown benefits in some schools, that he would allow the program to move forward but only by principal choice. He said that he wasn't going to force principals to use the program but was willing to let it go forward if they wanted it and thought it could help their campus."

"I believe the Superintendent spoke to Ms. Pennell on the phone on Monday or Tuesday but was not present for that conversation. I was present for the meeting between Maricarmen Eroles and Mr. MILES on Tuesday morning. Someone had told Mr. MILES (I don't know who) that Ms. Rodriguez had told Maricarmen and others who might have been around that she did what she did at the Briefing to teach the Superintendent a lesson. Mr. MILES explained to Ms. Eroles that he knew it was uncomfortable to be put in the position of having to report on one's boss but that he needed her to just be honest and confirm whether or not she had heard something. Mr. MILES asked her if she had ever heard Ms. Rodriguez say anything negative about him or the District. Ms. Eroles said she had not. Mr. MILES asked if she was present when Ms. Rodriguez came out of her meeting with him on Friday afternoon. She said she was and that Elsa Pennell was with her and Ms. Rodriguez was very upset. He asked how Ms. Eroles knew she was upset and she said just by what she was saying she was clearly upset with how the meeting had gone. He asked Ms. Eroles specifically if Ms. Rodriguez had said anything about trying to teach the Superintendent a lesson. Ms. Eroles confirmed that Ms. Rodriguez had said that she had done what she did at the board briefing to teach the Superintendent a lesson. Ms. Eroles said that she thought Ms. Rodriguez was venting and upset about how the Friday meeting with Mr. MILES had gone. Mr. MILES had prepared a memo prior to the meeting that recorded that he was concerned about reports he had received about Ms. Rodriguez saying negative things to staff members about him and the District and that Ms. Rodriguez had told Ms. Eroles that she was going to teach the Superintendent a lesson. To my recollection he did not have the memo with him during his conversation with Ms. Eroles. Afterward, he asked me to take the memo to Jack Elrod to make sure the way it was written was O.K. I did and Mr. Elrod confirmed that it was."

"At the end of the conversation there was a knock on the door and so I stepped out to see who it was and was out of the room for approximately a minute and half to two minutes before Ms. Rodriguez came out. As she was walking past me she said, "Justin, be prepared to document everything that just happened". Because she made that statement, later that night and next day I made bullet points that I then expanded into notes of the meeting. I will be forwarding an email with my notes to supplement my affidavit."

"I have no recollection of Mr. MILES ever saying something to the effect of someone needing to be committed enough to cut themselves and bleed and spit on it and rub it in."

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6. OPR did not interview Mike MILES. On June 28, 2013 Jack Elrod, Dallas ISD General Counsel, provided a copy of memorandum 13-0530 from **Mike MILES**, wherein Mike MILES addressed the above allegations as follows (W13-2 Memorandum):

"Meeting on 11 June"

"Ms. Rodriguez starts her narrative by distorting a short meeting that she and I had on 11 June. Justin Coppedge was in attendance and can describe what the tone and the meeting were about. I had accompanied Justin to his meeting with Ms. Rodriguez simply to inform her that I wanted to meet with her and Lisa Lemaster to talk about the reorganization of the Communications Department. It was she who became defensive about Lisa Lemaster's suggestions. Ms. Rodriguez stated that she believed "I didn't trust her" [Footnote 4: Justin Coppedge can attest to this statement from her. It is important that Ms. Rodriguez made this comment at this time, as future events would show that she was already predisposed to believing that I did not trust her.] as evidenced by my willingness to entertain Ms. Lemaster's suggestions."

"I responded that we had hired Lisa Lemaster (as a consultant) to help us think through building a modern communications structure. Ms. Rodriguez interjected that most of the ideas in Lemaster's plan were things she also wanted to do. I said that that was good and that it would make sense to do the things both of them could agree on. In any case, I noted, nothing had been decided and we would need to meet about it. She seemed concerned, so I repeated that nothing had been decided and that together we would reorganize the department."

"I was not "directive" nor did I mention the "intent of the commander." What Ms. Rodriguez is probably conflating is a phrase I have used in the past (and not at this particular meeting) with the Cabinet: "commander's intent." It is "a concise expression of the purpose of the operation and the desired end state that serves as the initial impetus for the planning process." [Footnote 5: This definition is from Answers.com. Read more: <http://www.answers.com/topic/commander-s-intent#ixzz2WxFwhdy5>] Other Cabinet members can attest to the fact that I use the phrase as it was intended and not to intimidate or to be overly directive."

"Teach him a lesson"

"At the Board briefing, when the parent engagement RFP came up, Ms. Rodriguez claimed she had nothing to do with it and remained silent during the rest of the discussion. [Footnote 3: We would later find out that Ms. Rodriguez actually did have a lot to do with the RFP, but she gave the impression (or lied) that she had no knowledge of the changes we were talking about. One can watch the video recording of her appearance before the Board on 13 June.] On Friday, 14 June, Ms. Rodriguez explained her behavior at the Board Briefing the day before to MariCarmen Eroles and Elsa Pennell. She told them that she wanted to "teach the Superintendent a lesson." These exact words were recounted by Ms. Eroles and can be corroborated by Elsa Pennell. Using a Board briefing to teach the superintendent a lesson is

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unprofessional at best, and also shows a certain degree of premeditation in her current campaign to defame me."

"On the same day, unbeknownst to me, Ms. Rodriguez also approached Don Smith in the Office of Professional Responsibility (OPR) and after making false accusations about me, and according to Don Smith, said, "I am well connected to the media and Mr. Miles had better watch out." [That last quotation is a paraphrase. Don Smith can provide the exact quotation.] It is clear that she was putting me on notice that any adverse action against her -- whether she deserved it or not -- would be met with the type of defamation campaign she has engaged in during the past six days."

"Ms. Rodriguez continued to make known her intention to make me pay for disagreeing with her and for questioning her loyalty when on Tuesday, 18 June, in a meeting with me and in the presence of District Counsel Jack Elrod, Ms. Rodriguez looked at me and stated that "you will be made to answer for this" when I gave her a letter of concern. Jack Elrod can confirm that this is exactly what was said."

"So it would appear that Ms. Rodriguez's narrative, which was written after she made the three threats outlined above, is also an attempt to ruin my reputation and deflect any criticism of her unprofessional behavior."

(June 14, 2013) **"Ms. Rodriguez attempts to rewrite history"**

"The rest of the Ms. Rodriguez's narrative contains numerous fabrications or distortions of what actually happened. We did have a meeting the next day (Friday, 14 June) to discuss the reorganization of the Communications Department. Lisa Lemaster was present. At one point, we did talk about ensuring that any new person in the Department would have to agree with the direction of the District, such as the fact that we would be tying teacher evaluations to student achievement results. Since the Communications Department would have to "sell" any major initiative, I thought it would be sound advice to select people who could agree with the initiatives. To add a small degree of levity, I raised the metaphor of the stories in which an agreement to become partners is sealed with a cut on the palm of the hand and then shaking hands; or when children spit on their hands and then shake. Ms. Rodriguez intentionally mischaracterizes this light-hearted metaphor. Lisa Lemaster can attest to the tone and content of my remarks."

"I know now that Ms. Rodriguez was waiting for any comment that she could misconstrue. I found out after work on Friday (14 June) that she had spent three hours at OPR that very morning to complain about me and make false accusations. She did not reveal that she had raised concerns or let me know what her concerns were. I find this to be highly unprofessional."

"More specific lies by Ms. Rodriguez"

"Perhaps the most egregious part of Ms. Rodriguez's document is her account of the

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meeting that followed the reorganization meeting with Lisa Lemaster. I did start the meeting with some compliments because I did not want her to shut down right away, and I wanted her to be in a position to hear what I had to say without getting too emotional. I had seen what had happened when Jerome Oberlton had merely asked her "why she hated Kerri Holt." Unlike Ms. Rodriguez's description of that event, she had become unhinged over that one question. She had gotten so angry that she was trembling and at one point tears welled up in her eyes. Charles Glover and Jerome Oberlton can attest to her emotional reaction."

"In any case, I suspected that she would again be emotional as I had to talk to her about her behavior at the Board Briefing. I told Justin Coppedge that I needed him to be in the room to be a witness. He and I had discussed having Charles Glover or another Chief in the room, but we decided that we did not want her to feel intimidated. [Footnote 7: Had I known she had been to OPR in the morning, I would have had Jack Elrod in the room.] Justin Coppedge can attest to my concern about not wanting to be in the room without a witness, but also not wanting to intimidate her."

"That one should dismiss Ms. Rodriguez's entire statement is supported by the fact that she starts off with a blatant lie to prejudice the reader. In her letter she says that I said I was tired of hearing about how she had left a good job *and* about her family commitments. The first part is true: I told her that she needed to stop bringing up the fact that she left a good job to come here. She had said this to me at least three times in the past. The second part is absolutely untrue, and she knows this. Justin Coppedge's account of the meeting describes the fact that I told her that talking about family is fine and that I was very sympathetic to her situation with regard to familial obligations (hence the mentioning of my family)."

"What makes her description such a blatant lie, however, is that she knows that I specifically told her previously that I would support her taking time to be at important family events, especially and specifically the graduation of her daughter. The record will reflect that she took two work days to attend to her daughter's graduation and that I was supportive of this absence."

"If she were truthful, she would recount a meeting with me on 24 May in which she was complaining about Kerri Holt's salary, how she was the lowest paid Cabinet member, and how she had left a good job. At the same meeting, she somewhat apologized for her outburst about her low salary and said she was stressed out because of the long Board meeting the night before. She said she had gotten home late and was met by her crying daughter. According to Ms. Rodriguez, her daughter was angry because her mom wasn't giving her the attention she needed and "wasn't there for her." Ms. Rodriguez opined that she felt that she was not fulfilling her responsibilities as a mother because of having to stay late at work. I told her at that time that she needed to take the time to be at graduation and other important events. I told her that she did not have to be at every Board meeting-that she could delegate some of those appearance and presentations to Jon Dahlander or Loretta Simons. I told her that I was very supportive of familial obligations, including those of Cabinet members."

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"Being part of the team"

"The next part of her narrative is equally deceiving and is filled with inaccuracies and mischaracterizations. I told her that I needed her to think about what it means to be part of a team. That we could disagree and argue behind closed doors, but that once a decision was made, it was important to present a united front and to support the decision. Because of her predisposition to mistrust, I said more than once that I was not talking about anything illegal or unethical. Justin Coppedge's account again can verify the veracity of my recollection."

"I told her that leaders also had to watch each other's back and to be careful about saying or doing things to throw someone under the bus; that sometimes a Chief had to take a bullet for the superintendent, the District, or his or her colleagues. She continually tried to tie my comments to her violating her integrity. So I repeated that I was not talking about anyone violating ethics or professionalism. By way of example, I brought up her behavior at the Board Briefing. I suggested that she could have said a number of things that would have protected her integrity and yet supported the team. I provided examples of what she could have said such as: "Let us take another look at it, and we will bring it back to the Board," or "Give us some time to clarify, and then we will bring it back to the Board." She was not able to come up with a response to these suggestions, but kept insisting that she was not here to take a bullet for anyone. She was fixated on that phrase, so I told her that it was a poor choice of expressions and again explained that I was not asking her to compromise her morals, but to be supportive of decisions once they are made."

"It was not I, but she, who was furious. [Footnote 8: Almost everyone can attest to my demeanor at meetings- I don't yell and scream, and the angrier my interlocutor gets, the calmer I try to be.] She thought I was suggesting that she compromise her integrity. She said she was made to look bad in the Board Briefing. I said that no fault had been attributed to her. I said that I was the one who took the hit. I said on camera that it was my fault, that I was the one mistaken, that I was the one who was confused. Even though I had been assured that the item was pulled, when it wasn't, I didn't throw anyone under the bus. I said leaders have to do that sometimes- take the blame or responsibility. I said that part of being on a team is that you back each other up. She looked incredulous at this point, and turned to Justin Coppedge and said "can you believe this."

"It became clear that she simply disagreed with me and my notion of being on a high-functioning team. [Footnote 9: I believe that this is the crux of the issue. Ms. Rodriguez does not want to support decisions she disagrees with. She thus has to find fault with those decisions or the person who is making them.] At the end, I told her that she may want to think about a plan to transition out of the District or come back next week to discuss it further. She did not respond to me, but simply stared at me with a lot of hatred."

"Jerome Oberlton and Kerri Holt"

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"The rest of the document concerns mostly Ms. Rodriguez's relationship with Jerome Oberlton and Kerri Holt. There are a lot of inaccuracies in her recounting of these relationships as well. As this rebuttal grows long, allow me just to point out that Ms. Rodriguez, by her own admission, notes that "prior to [her] confrontation with Jerome Oberlton, the Superintendent seemed very supportive in every manner." That confrontation happened on or about 6 May."

III. ALLEGED OBSTRUCTION OF OPR INVESTIGATION

A. Contacting Potential Witnesses to Discuss Case Facts and Allegations

Byron Sanders, Director, Dallas Education Foundation, submitted a sworn affidavit to OPR at 8:35 AM on June 24, 2013, wherein he stated,

"On Monday morning, June 24, at about 6:52 AM, I returned a missed call from Mike MILES on Sunday. The call lasted 7 minutes. He said I'm trying to recall how our conversation went last Wednesday. He asked me to tell him how I remembered the conversation. I reviewed for him the details below about my conversation with Theresa Ferguson in Purchasing. He said that's what he remembered. He then said there's some controversy or issue with this RFP and that he thought the last thing we said about this was he'd call Elsa to check on the matter. I said that's what I remember. Mike MILES did let me know that OPR would possibly be calling me, but he didn't advise me on what to say or what not to say." (W10-1)

B. Suspending the Investigation and Taking Custody of All Investigative Files

The sequence of events which led to the suspension of this investigation by Mike MILES are as follows:

- 1) On June 25, 2013 OPR was notified by General Counsel Jack Elrod that the Superintendent of Schools Floyd Mike MILES cancelled his June 26, 2013 scheduled interview with OPR. On June 25, 2013 Mike MILES instructed OPR to cease this investigation. In a phone call on this date from Mike MILES to Donald Smith, Chief Compliance Officer, Mike MILES stated (emphasis added), (W11-2 Notarized Statement) "... he did not want me to misinterpret his comments and that he did not want to violate any laws or policies or procedures. He stated that Rebecca Rodriguez and her attorney had entered into an agreement with the District and that she was going to withdraw her EEO complaint filed with the Legal Services Department. The Superintendent made it clear that since Rodriguez was withdrawing her complaint (OPR had not received any notification from Rodriguez or her attorney that her EEO complaint had been withdrawn) that there was now no reason to continue the OPR investigation for the good of the District. I (Smith) informed the Superintendent that I (Smith) had already received information from General Counsel Jack Elrod that this was taking place and that I (Smith) should also be prepared to receive a call from the Superintendent on terminating the OPR investigation."

"The Superintendent reiterated that he did not want to break any laws or violate any policies or procedures. I (Smith) replied to the Superintendent that the terminating of an OPR investigation was being addressed by OPR's attorney Robert Luna and General Counsel Jack

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Elrod and that I (Smith) was using the guidance of CAA(Local) page 4 as the controlling element ("Any required investigation of an individual's action shall be conducted without regard to that individual's length of service, position or title, or relationship with the District."). I (Smith) informed the Superintendent that I (Smith) was waiting for the legal issues to be resolved before I (Smith) would suspend/terminate the OPR investigation. The Superintendent asked that I (Smith) get back with him on this decision, but I (Smith) responded that he should have General Counsel get with him after further discussions with attorney Robert Luna."

On June 25, 2013 **Robert Luna**, an attorney retained by the District, advised Donald Smith that (emphasis added), *"Mr. Elrod and I had a telephone discussion regarding a directive given to Donald R. Smith, Chief Compliance Officer, earlier that day from Mr. Mike Miles, Superintendent, to terminate an active O.P.R. investigation of a complaint against Mr. Miles by Rebecca Rodriguez. We discussed the issues this raised, and among other things discussed, Mr. Elrod explained that her employment with the District had been resolved with her attorney, Mr. Daniel Ortiz, although the paperwork was not complete. Mr. Elrod also inquired about the status of the O.P.R. investigation. I asked whether Rebecca Rodriguez was going to withdraw her pending complaint, and if so, to obtain a letter confirming that she no longer wished to pursue her complaint. Mr. Elrod said he would call her attorney. Mr. Elrod called me later that day to report that he had spoken with Mr. Ortiz, who reported to Mr. Elrod that Rebecca Rodriguez was not willing to sign anything withdrawing her complaint at this time."* (W14-1 Letter)

- 2) On June 26, 2013 in a phone call from Mike MILES to Donald Smith, Mike MILES stated he had two concerns (emphasis added) (W11-3 Notarized Statement):

"The first concern was talking about suspending the OPR report by going to Board of Trustee (BOT) president Eric Cowan. The Superintendent stated that the BOT does not direct you and that "going to the BOT was bad form." The Superintendent stated that this was the second time doing it (reference to May 17th meeting concerning the merger of Internal Audit and OPR)."

"The second concern stated by the Superintendent was "the manner in which OPR was conducting investigations." The Superintendent stated that DeeDee (the Superintendent's executive administrative assistant) was called in by OPR and the Superintendent stated, "I do not want that done." Cannot have a secretary called into an investigation as this is "not appropriate as she sees my coming and goings." Superintendent continued saying this is "overreach and not appropriate." He said maybe if criminal, yes." The Superintendent said that oversight of OPR "you need to see how I am going to run OPR." "No checks and balances on OPR." The Superintendent continued saying, "We need OPR from the beginning I have said no big brother and divisive to group." "Overreach of OPR not just because of this case." "Very disappointed must be on same page." "Chain of decision making - I (meaning Superintendent) am clear on organization chart." "You need to follow my guidance." He then stated that BOT Eric Cowan had spoken to him today at approximately 8:00am and stated the investigation was in "suspense for now" this will allow attorneys Jack Elrod and Lisa Ray to "look at it and read it."

"The Superintendent then directed me to give them (Elrod and Ray) all documents to read. The Superintendent then asked do you have any questions. I responded, "No sir." Superintendent then cautioned me to inform him if I call a BOT member other than for "Casual conversation." Superintendent then asked if I understood and I stated "yes."

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"At 8:55 I informed the superintendent that BOT Eric had requested a copy of the draft OPR report. The Superintendent responded, "Give to Jack for attorney client privilege." I explained to the superintendent that this was the first time OPR had ever given any documents to legal services while an OPR investigation was in progress. The superintendent stated that he and legal would interpret CAA (Local)."

3) *On June 28, 2013 at 2:42 PM Mike MILES phoned Donald Smith and stated (W11-4 Statement):*

"The superintendent communicated to me that he and Board of Trustee President Eric Cowan have decided to unsuspended the administrative investigation stopped by the Superintendent and Cowan on Wednesday, June 26, 2013, after making a copy of the entire OPR investigative file to date and turning the file over to Dallas ISD General Counsel Jack Elrod and attorney Lisa Ray. The Superintendent stated that Jack Elrod would be notifying me in writing of this action after I requested a written confirmation of the unsuspension. I asked the Superintendent if I could call BOT President Cowan and he said I could. The permission to call Cowan was pursuant to the directive given to me by the Superintendent on Wednesday, June 26, 2013 at a meeting witnessed by General Counsel Jack Elrod wherein I was directed to notify the Superintendent of any communication with a Board of Trustee member if a decision making discussion was untaken or a matter that the District's decision chain needed to be aware of. The Superintendent responded that I could make contact with Board President Cowan. This ended the brief telephone conversation."

"I had just hung up my cellphone and received a second call from the Superintendent wherein he stated that he wanted the investigation to be conducted in a discreet manner. I assured him it would be as all of OPR's investigations are discreet. I took this second telephone call to remain me that possibly there should be a limitation on my investigatory interviews as I had been cautioned two days earlier that I had interviewed the Superintendent's Executive Administrative Assistant Andrea (DeeDee) Rodriguez and this was not appropriate as she is privilege to the Superintendent's comings and goings."

"Because of the Superintendent's second telephone call I called Board President Cowan and stated that my independence in this investigation was very questionable from hereon as the Superintendent had already placed a tacit limitation on the investigation by requiring that the investigation be conducted in a discreet manner. I asked for outside independent legal counsel work with OPR along with OPR's current attorney Robert Luna, P.C. I also requested that the direct intimation of Dallas ISD General Counsel's Office and attorneys be excluded from any action in the personal investigation of the Superintendent as this legal service is a benefit not available to any other employee in the District regardless of position or title during an OPR investigation. I stated that this is a misuse of District resources and a means of intimation to OPR employees doing their job. I recommended that Board President Cowan call attorney Robert Luna for guidance. Cowan said he could and would get back with me."

"Cowan called back approximately one hour later (3:52pm on June 28th) and stated that he was going to have to get with the Board's attorney Sonja Hotchkiss (sp) on this matter and would be calling me later in the day."

"I received a third telephone call from the Superintendent (4:33pm) advising me that he was going to have the Board determine if OPR or an outside attorney finish the investigation and I would be advised by the Board's attorney."

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On June 28, 2013 at 4:47 PM Mike MILES emailed Eric Cowan, and copied Jack Elrod and Donald Smith, and stated, "Board President Cowan, Based on my reading of the Board's intent from the closed session, I believe the OPR report initiated by Rebecca Rodriguez should be finished. As I would like to recuse myself from any involvement in the investigation, I ask that the Board work with its attorneys to finish the investigation in the most appropriate manner." (W12-1 Email)

Referral To Outside Agency

At the direction of the Dallas Independent School District Board's President, Eric Cowan, the OPR Investigation of Mike MILES will be referred to outside legal counsel for further investigation.



Vickie Blair, Inspector
Office of Professional Responsibility
Dallas Independent School District

Forwarded:



Norman R. Epstein
Director
Office of Professional Responsibility
Dallas Independent School District

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LIST OF WITNESSES AND EXHIBITS

WITNESS NUMBER	WITNESS	EXHIBIT NUMBER	DESCRIPTION
W1	Representative of the Compliance Department Office of Professional Responsibility Dallas ISD	<u>W1-1</u>	Case Details Hotline Report #11335
		<u>W1-2</u>	Schedule 1: Summary of Evaluation Committee Rankings by Individual Questions
		<u>W1-3</u>	Schedule 2: Payments to The Concilio, Suppler #14300
		<u>W1-4</u>	Schedule 3: Payments to Practical Parent Education, Supplier #7013
		<u>W1-5</u>	Schedule 4: Appointments Per Mike MILES Microsoft Outlook Calendar
		<u>W1-6</u>	Schedule 5: Timeline OPR Investigation #11335: Mike MILES
		<u>W1-7</u>	Schedule 6: Documents Provided to Jack Elrod June 26, 2013 / Received from Jack Elrod June 29, 2013
		<u>W1-8</u>	Schedule 7: Email Review: Mike MILES Case #1133
		<u>W1-9</u>	RFP KH-203923 August 2012 / September 2012
W2	Representative of Human Capital Management Dallas ISD	<u>W2-1</u>	Oracle Print of Floyd Mike MILES
		<u>W2-2</u>	April 26, 2012 Superintendent's Employment Contract
W3	Kimi Tate Director, Purchasing Dallas ISD	<u>W3-1</u>	Board Document Re: RFP TH- 204031
		<u>W3-2</u>	Invite Letters
		<u>W3-3</u>	RFP TH 204031
		<u>W3-4</u>	Notice to Proposers

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		<u>W4-5</u>	Board Document Re: RFP TH-204031
		<u>W4-6</u>	Emails Regarding Communications about The Concilio
		<u>W4-7</u>	Sworn Affidavit June 19, 2013
W5	Elsa Pennell Director of Community and Family Relations Office of Communications Dallas ISD	<u>W5-1</u>	Sworn Affidavit June 18, 2013 and Attachments
		<u>W5-2</u>	June 12, 2013 Email to Rebecca Rodriguez
		<u>W5-3</u>	June 13, 2013 Email from Rebecca Rodriguez
		<u>W5-4</u>	Notes Regarding Board Document
W6	MariCarmen Eroles Marketing and Publications Coordinator Office of Communications Dallas ISD	<u>W6-1</u>	Sworn Affidavit June 19, 2013
W7	Denoris Harris Director, Board Services Dallas ISD	<u>W7-1</u>	Sworn Affidavit June 20, 2013
		<u>W7-2</u>	Documents Provided – Requested during interview
W8	Andrea Rodriguez Administrative Assistant Superintendent's Office Dallas ISD	<u>W8-1</u>	Sworn Affidavit June 20, 2013
		<u>W8-2</u>	Attachments to Affidavit June 20, 2013
		<u>W8-3</u>	Documents Provided – Requested during interview
W9	Justin Coppedge Executive Assistant Superintendent's Office Dallas ISD	<u>W9-1</u>	Sworn Affidavit June 20, 2013
		<u>W9-2</u>	Documents Provided – Requested during interview
W10	Byron Sanders Director	<u>W10-1</u>	Sworn Affidavit June 24, 2013

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		<u>W3-5</u>	Addendum No 1
		<u>W3-6</u>	Bid Receipt Log
		<u>W3-7</u>	Proposal Practical Parent
		<u>W3-8</u>	Proposal The Concilo
		<u>W3-9</u>	Proposal Family Leadership
		<u>W3-10</u>	Proposal Pep It Up
		<u>W3-11</u>	Proposal Relevant Knowledge
		<u>W3-12</u>	Evaluation Committee Members
		<u>W3-13</u>	Evaluation Elsa Pennell
		<u>W3-14</u>	Evaluation Ivette Weis
		<u>W3-15</u>	Evaluation Sherry West
		<u>W3-16</u>	Evaluation MariCarmen Eroles
		<u>W3-17</u>	Evaluation Antonia Neal
		<u>W3-18</u>	Evaluation Martha Hawkins
		<u>W3-19</u>	Evaluation Annie Partee
W4	Rebecca Rodriguez Chief of Communications Dallas ISD	<u>W4-1</u>	Allegations Reported to OPR June 14, 2013 <u>Documents Provided to OPR June 14, 2013:</u>
		<u>W4-2</u>	May 3, 2013 Re: Kerri Holt / Work Performance
		<u>W4-3</u>	May 6, 2013 Re: Chief of Staff Jerome Oberlton
		<u>W4-4</u>	Rebecca Rodriguez / Notes 6.13.13

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WITNESS NUMBER	WITNESS	EXHIBIT NUMBER	DESCRIPTION
	Dallas Education Foundation Dallas ISD	<u>W10-2</u>	Supplemental Information provided subsequent to June 24, 2013 Affidavit
W11	Donald R. Smith, Jr. Chief of Compliance Dallas ISD	<u>W11-1</u> <u>W11-2</u> <u>W11-3</u> <u>W11-4</u> <u>W11-5</u>	June 13, 2013 Statement June 25, 2013 Statement June 26, 2013 Statement June 28, 2013 Statement Log of Phone Calls
W12	Jack Elrod General Counsel Dallas ISD	<u>W12-1</u> <u>W12-2</u>	June 26, 2013 Email Advising Mike Miles cancelled his scheduled Interview June 28, 2013 Memorandum Re: June 18, 2013 Meeting with Rebecca Rodriguez
W13	Floyd Mike MILES Superintendent Dallas ISD	<u>W13-1</u> <u>W13-2</u> <u>W13-3</u>	June 18, 2013 Memorandum 13-0510 June 21, 2013 Memorandum 13-0530 Documents Referenced in June 21, 2013 Memorandum 13- 0530; Presumed provided by Mary McCants
W14	Robert E. Luna, Law Offices of Robert E. Luna, P.C. Dallas, Texas	<u>W14-1</u>	July 18, 2013 Letter Regarding Jack Elrod's confirmation that Rebecca Rodriguez was not willing to withdraw the complaint submitted to OPR

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